

**NEW
MEXICO
REGISTER**

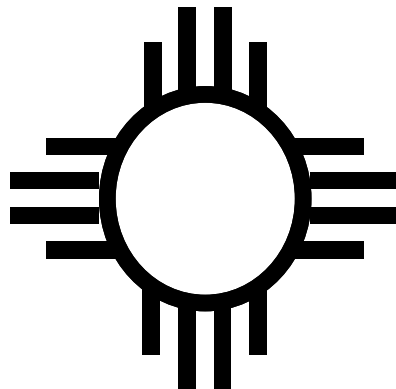


Volume XVII
Issue Number 9
May 15, 2006

New Mexico Register

Volume XVII, Issue Number 9

May 15, 2006



The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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New Mexico Register

Volume XVII, Number 9

May 15, 2006

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Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. "No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register." Section 14-4-5 NMSA 1978.

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Notices of Rulemaking and Proposed Rules

**NEW MEXICO
DEPARTMENT OF
FINANCE AND
ADMINISTRATION**
STATE BOARD OF FINANCE

NEW MEXICO DEPARTMENT OF
FINANCE AND ADMINISTRATION

STATE BOARD OF FINANCE

NOTICE OF BOARD OF FINANCE
RULE

The state Board of Finance is in the process of revising one of its rules: Depository Bank Requirements, Collateral Level Requirements, and Custodial Bank Requirements. Copies of the existing rule and proposed changes are available in room 181, Bataan Memorial Building, Santa Fe, NM 87501 and on the Board of Finance website, <http://nmsbof.state.nm.us>. The Board will consider adopting the proposed rule at its June 20, 2006 meeting, which takes place at 9:30 in the Governor's Cabinet Room, State Capitol Building. Please mail or deliver written comments on the proposed changes to Olivia Padilla-Jackson, 181 Bataan Memorial Building, Santa Fe, NM 87501 by June 15, 2006.

**NEW MEXICO GAME
COMMISSION**

**STATE GAME COMMISSION
PUBLIC MEETING AND
RULEMAKING NOTICE**

On Thursday, May 25, 2006, beginning at 9:00 a.m. at the Clayton Airpark, 1610 Water Street, Clayton, New Mexico 88415, the State Game Commission will meet in Public Session to consider action as appropriate on the following: Consent Agenda for Committee Reports; State Game Commission Approval Sought for 2007 Habitat Stamp Program Projects; Update on Land Conservation Funding Project Reviews, Process Modification, and Related Actions; Presentation of Foundational Resource Information for Development of Cougar Harvest Management Rule, 19.31.11, NMAC, and Furbearer Harvest Management Rule, 19.32.2, NMAC; Presentation of Information Regarding Waterfowl and Migratory Bird Regulation Frameworks, 19.31.5 and 19.31.6, NMAC; Presentation of an Approach to Inform and Promote Quail Habitat Management in New Mexico; Update on Rocky Mountain Bighorn Sheep Trapping and Transplanting

Activities for 2007 through 2009; Director's Recommendation Regarding Headwater Chub Investigation; Consideration of Special White-tailed Deer Hunting Opportunities in Eastern New Mexico; General Public Comments; and Closed Executive Session to discuss litigation, personnel, and acquisition or disposal of real property or water rights, and pursuant to Section 10-15-1(H)(1), NMSA, 1978, Guide/Outfitter Notice of Contemplated Commission Action pursuant to 19.30.8, NMAC, or 17-2A-3, NMSA, 1978.

The following rules are opened for public comment and consideration by the Commission:

- * Adoption of Proposed New Mexico Hunter-Trapper Reporting System Rule, 19.30.10, NMAC;
- * Amend a Portion of the Private Land Elk License Allocation Rule, 19.30.5.11, Paragraph A, NMAC, and Hunting & Fishing License Application Rule, 19.31.3.9, Part D, NMAC;
- * Amend a Portion of the Boundary Descriptions for Wildlife Management Units Rule, 19.30.4.10, Part E, NMAC;
- * Amend a Portion of the Hunting and Fishing - Manner and Method of Taking Rule, 19.31.10.20, Part B, NMAC, and
- * Amend Hunting and Fishing License Revocation Rule, 19.31.2, NMAC, and Hunting and Fishing License Application Rule 19.31.3, NMAC, dealing with Penalty Assessment Process.

A copy of the agenda or any of the affected rules can be obtained from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504 or on the Department's website. This agenda is subject to change up to 24 hours prior to the meeting. Please contact the Director's Office at (505) 476-8008, or the Department's website at www.wildlife.state.nm.us for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Shirley Baker at (505) 476-8030. Please contact Ms. Baker at least 3 working days before the set meeting date. Public documents, including the Agenda and Minutes can be provided in various accessible forms. Please contact Shirley Baker if a summary or other type of accessible form is needed.

**NEW MEXICO
GAMING CONTROL
BOARD**

**NEW MEXICO
GAMING CONTROL BOARD**

**NOTICE OF HEARING ON
AMENDMENTS TO RULES**

The New Mexico Gaming Control Board ("Board") will hold a public hearing at 9:00 a.m. on May 18, 2006, at the New Mexico Gaming Control Board, 4900 Alameda Blvd., N.E., Albuquerque, New Mexico 87113 to consider amendments for the following rules: **15.1.5 NMAC, Application for Licensure Under the Gaming Control Act**, **15.1.6 NMAC, Premises Licensed under the Gaming Control Act**, **15.1.7 NMAC, Gaming Machines, New Games and Associated Equipment**, **15.1.8 NMAC, Accounting Requirements under the Gaming Control Act**, **15.1.9 NMAC, Internal Control Minimum Standards for Gaming Devices under the Gaming Control Act**, **15.1.10 NMAC, Conduct of Gaming under the Gaming Control Act**, **15.1.21 NMAC, Enforcement of Security Interests under the Gaming Control Act.**

Copies of the proposed amendments are available on request to the New Mexico Gaming Control Board, 4900 Alameda Blvd., N.E., Albuquerque, New Mexico 87113, or by calling (505) 841-9733. The proposed changes are also available on our website at www.nmgcb.org. The Board can provide public documents in various accessible formats.

The hearing will be held before a hearing officer appointed by the Board. All interested parties may attend the hearing and present their views orally or submit written comments prior to the hearing. Written comments should be directed to the Gaming Control Board, 4900 Alameda Blvd., N.E., Albuquerque, New Mexico 87113.

If you are an individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, please contact Denise Leyba, Gaming Control Board, at least one week prior to the hearing at (505) 841-9733.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
INCOME SUPPORT DIVISION**

NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing to consider deleting portions of text in the Cash Assistance Programs rules at 8.102.120, 8.102.400, 8.102.420, 8.102.500 and 8.102.611 NMAC that have been duplicated in the creation of the State-Funded Cash Assistance rules 8.106 NMAC, promulgated on July 1, 2004. The hearing will be held at 9:00 am on Friday, June 16, 2006. The hearing will be held at the Income Support Division conference room, 2009 S. Pacheco St., Santa Fe, NM. The conference room is located in Room 120 on the lower level.

The Department proposes an amendment to 8.102.500 and 8.106.500 due to funding appropriated from the 47th Legislature, Second Session, allowing an increase in the special clothing allowance disbursed to each eligible school age child in TANF, Education Works and General Assistance households.

The Department proposes an amendment to 8.102.611 due to Senate Bill 107 enacted from the 47th Legislature, Second Session expanding the Education Works Cash Assistance regulations to allow enrollment in graduate and post-graduate studies and to allow a participant to earn more than one post secondary degree while enrolled in the program.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Department toll free at 1-800-432-6217, TDD 1-800-609-4TDD (4833), or through the New Mexico Relay System toll free at 1-800-659-8331. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals wishing to testify or requesting a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling toll free 1-800-432-6217.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 PM on the date of the hearing. Please send comments to:

Pamela S. Hyde, J.D., Secretary
Human Services Department
P.O. Box 2348 Pollon Plaza
Santa Fe, NM 87504-2348

You may send comments electronically to:
ted.roth@state.nm.us

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 9:00 a.m., on June 14, 2006, in the HSD Law Library at Pollon Plaza, 2009 S. Pacheco Street, Santa Fe, New Mexico. The subject of the hearing will be **Twelve-Month Certification Period**.

Federal regulations at 42 CFR 435.916 require re-certification of Medicaid recipients for Medicaid eligibility at least every twelve (12) months. States have the option and New Mexico is proposing re-certification of Medicaid recipients for Medicaid every twelve (12) months.

Eligibility groups that will be affected by the change from a 6-month certification period to a 12-month certification period are the JUL Medicaid category (072) and Children's Medicaid (032). No other categories of Medicaid coverage will be affected.

Interested persons may submit written comments no later than 5:00 p.m., June 14, 2006, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at www.state.nm.us/hsd/register.html or by sending a self-addressed stamped envelope to Medical Assistance Division, Program

Oversight & Support Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

**NEW MEXICO BOARD OF
OSTEOPATHIC MEDICAL
EXAMINERS**

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Osteopathic Medical Examiners Board will hold a Rule Hearing on June 30, 2006. Following the Rule Hearing the New Mexico Osteopathic Medical Examiners Board will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Osteopathic Medical Examiners Board Rule Hearing will begin at 9:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held at the Regulation and Licensing Department, 5200 Oakland Ave NE, Albuquerque, NM.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in NMAC 16.17 Osteopathic Medicine and Surgery Practitioners - Part 1 General Provisions, Part 2 Application for Licensure, Part 3 Examination, Endorsement, and Temporary License, and Emergency Licensure, Part 4 Renewal and Continuing Education Requirements, Part 6 Revocation or Refusal of Licensure, and Part 7 Reinstatement; in NMAC 16.18 Osteopathic Physician's Assistant - Part 2 Application Procedure, Part 3 Renewal of Certification, Active and Inactive Status, and Part 7 Prescribing and Distribution of Controlled Substances.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico 87505, or call (505) 476-4605 after May 30, 2006. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board office in writing no later than June 15, 2006. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to

attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4605 at least two weeks prior to the meeting or as soon as possible.

Liz King, Administrator
 PO Box 25101- Santa Fe, New Mexico 87504

**NEW MEXICO PUBLIC EDUCATION
 DEPARTMENT**

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

The Public Education Department (“Department”) hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on June 16, 2006, from 10:00 a.m. to noon. The purpose of the public hearing will be to obtain input on the following rule:

| Rule Number | Rule Name | Proposed Action |
|-------------|-------------------------------------------|---------------------|
| 6.19.6 NMAC | Title I Supplemental Educational Services | Amend existing rule |

Interested individuals may testify at the public hearing or submit written comments to Daniel Williams, Education Administrator, School Assistance Bureau, Public Education Department, School Assistance Bureau, Public Education Department, TVI Workforce Center, 5600 Eagle Rock Ave. NE, Room 201, Albuquerque, NM 87113 (daniel.williams@state.nm.us) (telefax (505) 827-1826). Written comments must be received no later than 5 p.m. on the date of the hearing. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rule may be accessed on the Department’s website (<http://ped.state.nm.us/>) or obtained from Sharyn Perea, Administrative Assistant, School Assistance Bureau, Public Education Department, TVI Workforce Center, 5600 Eagle Rock Ave. NE., Room 201, Albuquerque, NM 87113 (505) 222-4747.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Perea as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**NEW MEXICO PUBLIC EDUCATION
 DEPARTMENT**

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

The Public Education Department (“Department”), Rural Education Division, hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on June 19, 2006, from 10:00 a.m. to noon. The purpose of the public hearing will be to obtain input on the following rules:

Interested individuals may testify at the public hearing or submit written comments to Dr.

| Rule Number | Rule Name | Proposed Action |
|---------------------------------------|----------------------------------------------------------------------------------------------|-----------------|
| 6.34.2 NMAC (Proposed NMAC Number) | RURAL EDUCATION: FLEXIBILITY FOR RURAL SCHOOL DISTRICTS (Proposed chapter and part names) | Adopt new rule |

James Holloway, Assistant Secretary, Rural Education Division, Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 (jim.holloway@state.nm.us) (telefax (505) 827-6534).

Written comments must be received no later than 5 p.m. on June 19, 2006. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed on the Department’s website (<http://ped.state.nm.us/>) or obtained from Linda Croom, Administrative Assistant, Rural Education Division, Public Education Department, Jerry Apodaca Education Building, 300

Don Gaspar, Santa Fe, New Mexico 87501-2786 at (505) 827-6655. The proposed rules will be made available at least thirty days prior to the hearings.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Ms. Croom as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

**NEW MEXICO
 PUBLIC REGULATION
 COMMISSION
 INSURANCE DIVISION**

**STATE OF NEW MEXICO
 PUBLIC REGULATION
 COMMISSION
 INSURANCE
 DIVISION**

**IN THE MATTER OF
 AMENDING
 13.10.10 NMAC,
 COMPREHENSIVE
 HEALTH INSURANCE
 POOL PLAN
 OF OPERATION**

**DOCKET NO.
 06-00154-IN**

**AMENDED NOTICE OF HEARING ON
 PROPOSED RULEMAKING AND
 PROCEDURAL ORDER**

NOTICE IS HEREBY GIVEN that the New Mexico Superintendent of Insurance (“Superintendent”) upon the request of the Board of the New Mexico Medical Insurance Pool proposes to amend 13.10.10 NMAC, Comprehensive Health Insurance Pool Plan of Operation. The Superintendent, being fully advised, **FINDS and CONCLUDES:**

1. The Medical Insurance Pool Act, Chapter 59A, Article 54 NMSA 1978 (the “Act”) provides that the Board of the New Mexico Medical Insurance Pool shall submit a plan of operation to the Superintendent and any amendments to it that are necessary or suitable to assure the fair, reasonable and equitable administration of the New Mexico Medical Insurance Pool. The Act further provides that the Superintendent shall, after notice and hearing, approve the plan of operation provided it meets statutory requirements.

2. The Board of the New Mexico Medical Insurance Pool has proposed amendments to the plan of operation to

establish that the number of Board members required for a quorum shall be based on the number of members currently serving on the Board. The Board has proposed these amendments to facilitate plan operations in light of vacancies the Board has experienced.

3. The proposed amendments will also change the name of 13.10.10 NMAC from Comprehensive Health Insurance Pool Plan of Operation to New Mexico Medical Insurance Pool Plan Of Operation to reflect the current statutory name of the Pool. (See Section 59A-54-4 NMSA 1978).

4. Copies of the proposal are available as follows:

a. by downloading from the Public Regulation Commission's website, www.nmprc.state.nm.us, under "Insurance Division," then "News" and "Proposed Rules, 13.10.10 NMAC, Comprehensive Health Insurance Pool Plan of Operation;"

b. by sending a written request with the docket number, rule names, and rule numbers to the Public Regulation Commission's Docketing Office, P.O. Box 1269, Santa Fe, NM 87504-1269 along with a self-addressed envelope and a check for \$5.00 made payable to the Public Regulation Commission to cover the cost of copying; or

c. for inspection and copying during regular business hours in the Public Regulation Commission's Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

5. The Superintendent requests written and oral comments from all interested persons and entities on the proposal. All relevant and timely comments, including data, views, or arguments, will be considered by the Superintendent. In reaching his decision, the Superintendent may take into account information and ideas not contained in the comments, providing that such information or a writing containing the nature and source of such information is placed in the docket file, and provided that the fact of the Superintendent's reliance on such information is noted in the order the Superintendent ultimately issues.

IT IS THEREFORE ORDERED that this Amended Notice of Hearing on Proposed Rulemaking and Procedural Order be issued.

IT IS FURTHER ORDERED that an informal public hearing pursuant to Section 59A-4-18 NMSA 1978 be held on **Wednesday, June 28, 2006** at 10:00 a.m. in the Public Regulation Commission, Fourth Floor Hearing Room, P.E.R.A. Building,

corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, New Mexico for the purpose of receiving oral public comments including data, views, or arguments on the proposal. All interested persons wishing to present oral comments may do so at the hearing. Interested persons should contact the Insurance Division ahead of time to confirm the hearing date, time, and place since hearings are occasionally rescheduled.

IT IS FURTHER ORDERED that all interested parties may file written comments on the proposal on or before **Friday, June 23, 2006**. An original and two copies of written comments must be filed with the Public Regulation Commission's Docketing Office, Room 406, P.O. Box 1269, Santa Fe, NM 87504-1269. The docket number must appear on each submittal. If possible, please also e-mail a copy of written comments in Microsoft Word format to michael.batte@state.nm.us. Comments will be available for public inspection during regular business hours in the Docketing Office, Room 406, P.E.R.A. Building, corner of Paseo de Peralta and Old Santa Fe Trail, Santa Fe, NM.

IT IS FURTHER ORDERED that the Superintendent may require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

IT IS FURTHER ORDERED that Insurance Division Staff shall cause a copy of this Notice to be published once in the *New Mexico Register* and once in the *Albuquerque Journal*.

PLEASE BE ADVISED THAT the New Mexico Lobbyist Regulation Act, Section 2-11-1 *et seq.*, NMSA 1978 regulates lobbying activities before state agencies, officers, boards and commissions in rulemaking and other policy-making proceedings. A person is a lobbyist and must register with the Secretary of State if the person is paid or employed to do lobbying or the person represents an interest group and attempts to influence a state agency, officer, board or commission while it is engaged in any formal process to adopt a rule, regulation, standard or policy of general application. An individual who appears for himself or herself is not a lobbyist and does not need to register. The law provides penalties for violations of its provisions. For more information and registration forms, contact the Secretary of State's Office, State Capitol Building, Room 420, Santa Fe, NM 87503, (505) 827-3600.

PLEASE BE ADVISED THAT individuals with a disability, who are in need of a

reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, may contact Bettie Cordova at (505) 827-4526. Public documents associated with the hearing can be provided in various accessible forms for disabled individuals. Requests for summaries or other types of accessible forms should also be addressed to Ms. Cordova.

DONE, this 25th day of April 2006.

**NEW MEXICO PUBLIC REGULATION COMMISSION
INSURANCE DIVISION**

ERIC P. SERNA,
Superintendent of Insurance

**NEW MEXICO PUBLIC
REGULATION
COMMISSION
TRANSPORTATION DIVISION**

**BEFORE THE NEW
MEXICO PUBLIC
REGULATION
COMMISSION**)

**IN THE MATTER
OF THE ADOPTION**)

**OF PROPOSED
AMENDMENTS TO**)

**THE COMMISSION'S
MOTOR
TRANSPORTATION
RULE 18.3.3 NMAC**)

**TRANSPORTATION
DIVISION STAFF**)

**OF THE PUBLIC
REGULATION
COMMISSION,**

Petitioner.

**Docket No.
06-00145-TR-M**

**NOTICE OF PROPOSED
RULEMAKING**

NOTICE is hereby given that the New Mexico Public Regulation Commission ("Commission") is commencing a rulemaking proceeding for the purpose of proposing an amendment to the Commission's Motor Transportation Rule on financial responsibility, 18.3.3 NMAC. The proposed amendments

would be promulgated under authority granted to the Commission under NMSA 1978, Sections 8-8-4, 8-8-15, 65-2A-4 and 65-2A-18.

On April 20, 2006, Staff of the Transportation Division of the Commission ("Staff") filed a Motion to Initiate Rulemaking. Staff requested that the Commission commence a rulemaking to amend 18.3.3 NMAC to implement NMSA 1978, Section 65-2A-18, which requires the Commission to prescribe minimum requirements for financial responsibility for all "incidental carriers" by July 1, 2006. The term "incidental carriers" means, "a motor carrier of persons that provides services for which the customer pays either directly or indirectly and that transports passengers in conjunction with the primary service that it provides." NMSA 1978, Section 65-2A-3.S. The Commission finds that Staff's Motion is well taken and should be granted and that the Commission should consider adopting a rule pertaining to minimum limits of financial responsibility for incidental carriers. The amended Motor Transportation Rule is attached to the Notice of Proposed Rulemaking as Exhibit 1.

As proposed by Staff, incidental carriers would be required to maintain a combined single limit public liability policy amount of at least two hundred and fifty thousand dollars (\$250,000) per occurrence for bodily injury to or death of all persons injured or killed and property damage.

Any person wishing to comment on the proposed amendment may do so either by submitting written comments or by commenting in person. Initial written comments are due no later than June 2, 2006. Any person wishing to respond to such written comments may do so by submitting written response comments no later than June 12, 2006. Comments suggesting changes to the rule amendment as proposed shall state and discuss the particular reasons for the suggested changes and should include all specific language necessary or appropriate to effectuate the changes being suggested.

All pleadings, including comments, shall bear the caption and case number contained at the top of this notice. Copies of the proposed amendments to Rule 18.3.3 NMAC can be obtained from, and comments on the proposed rule, and response comments, shall be sent to:

Bettie Cordova, Docketing Office
New Mexico Public Regulation
Commission
Docketing Bureau
PERA Bldg. Room 406
1120 Paseo del Peralta 87501
PO Box 1269
Santa Fe, New Mexico 87504-1269
Telephone: (505) 827-4526

The Commission will review all timely submitted written comments and will hold public hearings to take oral comment regarding the proposed rules. The schedule and locations for these public hearings are as follows:

(a) Wednesday, May 24, 2006 at 10:00 a.m. at the Chaves County Administrative Center, 1 St. Mary's Place, Roswell, NM 88203;

(b) Tuesday, May 30, 2006 at 4:00 p.m. at the Las Cruces City Council Chambers, 200 N. Church, Las Cruces, NM 88001; and,

(c) Friday, June 16, 2006, at 10:00 a.m. at the offices of the Public Regulation Commission, PERA Building, 4th Floor Hearing Room, 1120 Paseo de Peralta, Santa Fe, NM 87501.

Persons interested in attending these hearings should contact the Commission at the telephone number listed above to confirm the date, time and place of any public hearing, since hearings are occasionally rescheduled. Pursuant to NMSA 1978, Section 8-8-15.B, this notice, including Exhibit 1, shall be mailed at least thirty days prior to the June 16, 2006 hearing date to all persons who have made a written request for advance notice. Also, pursuant to NMSA 1978, Section 8-8-15.B, this notice shall be published (without Exhibit 1) in at least two newspapers of general circulation in the State and in the New Mexico Register.

Copies of any Final Order adopting a rule in this matter will be sent, along with copies of the particular rule to commentors in the case, and individuals requesting such copies.

Any person with a disability requiring special assistance in order to participate in a hearing should contact Bettie Cordova at (505) 827-4526 at least 48 hours prior to the commencement of any listed hearing.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico

this 2nd day of May 2006.

NEW MEXICO PUBLIC REGULATION COMMISSION

BEN R. LUJAN, CHAIRMAN

JASON MARKS,
VICE CHAIRMAN

DAVID KING, COMMISSIONER

LYNDA M. LOVEJOY
COMMISSIONER

E. SHIRLEY BACA, COMMISSIONER

NEW MEXICO RACING COMMISSION

NEW MEXICO RACING COMMISSION NOTICE OF RULEMAKING AND PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a rulemaking and public hearing will be held in the Commission Conference Room, 300 San Mateo N.E., Albuquerque, New Mexico, commencing in executive session at 8:00 o'clock a.m. on Thursday, May 25, 2006. The public session will begin at 9:00 o'clock a.m. on Thursday, May 25, 2006. The Commission will consider adoption of proposed amended rule for incorporation into the Rules Governing Horse Racing in New Mexico No. 16.47.1.8 NMAC (regarding licenses.)

Copies of the proposed rule may be obtained from Julian Luna, Agency Director, New Mexico Racing Commission, 300 San Mateo N.E., Suite 110, Albuquerque, New Mexico 87108, (505) 841-6400. Interested persons may submit their views on the proposed rules to the commission at the above address and/or may appear at the scheduled meeting and make a brief verbal presentation of their view.

Anyone who requires special accommodations is requested to notify the commission of such needs at least five days prior to the meeting.

Julian Luna
Agency Director

Dated: April 28, 2006

**End of Notices and
Proposed Rules Section**

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Adopted Rules

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.1 NMAC Section 11, effective 05-15-2006.

16.60.1.11 PRESCRIBED FORMS: All requests for licensure transactions and all documentation for licensure purposes must be made on prescribed forms.

~~[(4)]~~**A.** PAB 1 - Application for a New Mexico CPA Certificate by Examination.

~~[(2)]~~**B.** PAB 2 - Application for a New Mexico CPA Certificate by Grade Transfer.

~~[(3)]~~**C.** PAB 3 - Application for a New Mexico CPA Certificate by Reciprocity.

~~[(4)]~~**D.** PAB 4 - Application for Renewal of a Current New Mexico CPA Certificate.

~~[(5)]~~**E.** PAB 5 - Application for Reinstatement of a Cancelled New Mexico CPA Certificate.

~~[(6)]~~**F.** PAB 6 - Application for Change of Certificate Status.

~~[(7)]~~**G.** PAB 7 - Application for Firm Permit.

~~[(8)]~~**H.** PAB 8 - Firm Permit Renewal Application.

~~[(9)]~~**I.** PAB 9 - Application for Reinstatement of an Expired Firm Permit.

~~[(10)]~~**J.** PAB 10 - Notification of the Intent to Practice in the State of New Mexico Under the Provisions of Substantial Equivalency.

~~[(11)]~~**K.** PAB 11 - Interstate Exchange of Information Form.

~~[(12)]~~**L.** PAB 12 - Work Experience Verification Form.

~~[(13)]~~**M.** PAB 13 - ~~[Interstate Verification of Supervisor's Certification]~~ Interstate Notification of Verifying CPA's License.

~~[(14)]~~**N.** PAB 14 - Report of Continuing Professional Education.

[16.60.1.11 NMAC - N, 07-30-2004; A, 05-15-2006]

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.3 NMAC Section 15, effective 05-15-2006.

16.60.3.15 CONTINUING PROFESSIONAL EDUCATION (CPE) REQUIRED TO OBTAIN OR MAINTAIN AN "ACTIVE" CPA LICENSE:

A. The following require-

ments of continuing professional education apply to certificate/license renewals and reinstatements pursuant to Sections 9E and 12A of the act. An applicant for certificate/license renewal shall show completion of no less than 120 clock hours of CPE, complying with these rules during the 36-month period ending on the last day of the certificate/license holder's birth month.

(1) Any applicant seeking a license/certificate or renewal of an existing license shall demonstrate participation in a program of learning meeting the standards set forth in the statement on standards for continuing professional education (CPE) programs jointly approved by NASBA and AICPA or standards deemed comparable by the board.

(2) Each person holding an active CPA certificate/license issued by the board shall show completion of no less than 120 hours of continuing professional education complying with these rules during the preceding 36-month period ending on the last day of the certificate/license holder's birth month, with a minimum of 20 hours completed in each year. Licensees shall report CPE completion on board prescribed forms including a signed statement indicating they have met the requirements for participation in the CPE program set forth in board rules.

(3) The board may, at its discretion, accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications in lieu of documented evidence of such. Reciprocity and reinstatement applications shall require documented evidence of compliance with CPE provisions.

(4) Deadline for receipt of license renewal applications and supporting CPE reports or affidavits is no later than the last day of the certificate/license holder's birth month. Renewal applications and supporting CPE affidavits or reports shall be post-marked or hand-delivered no later than the renewal deadline date or the next business day if the deadline date falls on a weekend or holiday.

(5) In the event that a renewal applicant has not completed the requisite CPE by the renewal deadline, he shall provide a written explanation for failure to complete CPE; request an extension for completion of the required CPE; and shall provide a written plan of action to remediate the deficiency.

(a) The extension request and action plan shall accompany the renewal application.

(b) The provisions of the action plan shall be executed within 60 days of the expiration date of the license.

(c) The board reserves the right

not to approve a plan of action or grant an extension.

(d) Although a plan of action may be approved immediately upon receipt, the board reserves the right to levy a fine at a later date for late CPE of \$10.00 per day not to exceed \$1,000.

(e) The board may waive this fine for good cause.

(f) If all CPE requirements are not met within 90 days beyond the expiration date of the license, the license shall be subject to cancellation.

(6) Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

(7) Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the CPE requirements of Sections 9E and 12A of the act and of these rules.

(8) Reinstatement applicants whose certificates/licenses have lapsed shall provide documented evidence of completion of 40 hours of CPE for each year the certificate/license was expired, not to exceed 200 hours. If the license was expired for longer than 36 months, at least 120 of the hours must have been earned within the preceding 36 months.

(a) The length of expiration shall be calculated from the date the license expired to the date the application for reinstatement was received by the board office.

(b) If the license was expired for less than one year, documented evidence of 40 hours of CPE earned within the 12 months immediately preceding the date of application for reinstatement must be provided.

(c) If the license was expired for longer than one year, for the purpose of determining the number of CPE hours required, the length of expiration shall be rounded down to the last full year if the partial year was less than six months and rounded up to the next full year if the partial year was more than six months.

B. Exemption from CPE requirements through change of certificate/license status between inactive/retired and active status.

(1) Pursuant to Section 9E of the act, the board may grant an exception to CPE requirements for certificate holders who do not provide services to the public. Public means any private or public corporate or governmental entity or individual. An individual who holds an inactive certificate/license is prohibited from practicing public accounting and may only use the CPA-inactive designation if they are not

offering accounting, tax, tax consulting, management advisory, or similar services either in New Mexico or in another state or country. Persons desiring exemption from CPE rules requirements may request to change from "active" to "inactive" or "retired" certificate/license status, provided that they:

(a) complete board-prescribed change-of-status forms and remit related fees;

(b) not practice public accountancy as defined in Section 3M of the act; public accountancy means the performance of one or more kinds of services involving accounting or auditing skills, including the issuance of reports on financial statements, the performance of one or more kinds of management, financial advisory or consulting services, the preparation of tax returns or the furnishing of advice on tax matters; and

(c) place the word "inactive" or "retired" adjacent to their CPA or RPA title on a business card, letterhead or other documents or devices, except for a board-issued certificate.

(2) Persons requesting to change from "inactive" or "retired" to "active" certificate/license status shall:

(a) complete board-prescribed change-of-status forms and remit related fees; and

(b) provide documented evidence of 40 hours of CPE for each year the certificate/license was inactive, not to exceed 200 hours; if the license was inactive for longer than 36 months, at least 120 of the hours must have been earned within the preceding 36 months.

(3) The effective date of this provision shall be January 1, 2007. An individual who holds an inactive certificate/license as of January 1, 2006 and expects to be subject to the provisions of this rule shall be permitted to obtain an active certificate/license between January 1, 2006 and December 31, 2006 provided they:

(a) complete board-prescribed change-of-status forms and remit related fees; and

(b) provide documented evidence of 40 hours of CPE earned between January 1, 2005 and December 31, 2006 or complete 120 hours of CPE within the three-year period immediately prior to the date of application for active status, provided that the application is received by the board no later than December 31, 2006.

(4) An individual who obtains an active certificate/license during this transitional period of January 1, 2006 to December 31, 2006 shall not be subject to the provisions of sub-paragraph (b) of paragraph (2) above.

C. Hardship exceptions:

The board may make exceptions to CPE requirements for reason of individual hardship including health, military service, foreign country residence, or other good cause. Requests for such exceptions shall be subject to board approval and presented in writing to the board. Requests shall include such supporting information and documentation as the board deems necessary to substantiate and evaluate the basis of the exception request.

D. Programs qualifying for CPE credit: A program qualifies as acceptable CPE for purposes of Sections 9E and 12A of the act and these rules if it is a learning program contributing to growth in professional knowledge and competence of a licensee. The program must meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the statement on standards for continuing professional education programs jointly approved by NASBA and AICPA, by accounting societies recognized by the board, or such other standards deemed acceptable to the board.

(1) The following standards will be used to measure the hours of credit to be given for acceptable CPE programs completed by individual applicants:

(a) an hour is considered to be a 50-minute period of instruction;

(b) a full 1-day program will be considered to equal 8 hours;

(c) only class hours or the equivalent (and not student hours devoted to preparation) will be counted;

(d) one-half credit increments are permitted after the first credit has been earned in a given learning activity.

(2) Service as a lecturer, discussion leader, or speaker at continuing education programs or as a university professor/instructor (graduate or undergraduate levels) will be counted to the extent that it contributes to the applicant's professional competence.

(3) Credit as a lecturer, discussion leader, speaker, or university professor/instructor may be allowed for any meeting or session provided that the session would meet the continuing education requirements of those attending.

(4) Credit allowed as a lecturer, discussion leader, speaker or university professor/instructor will be on the basis of 2 hours for subject preparation for each hour of teaching and 1 hour for each hour of presentation. Credit for subject preparation may only be claimed once for the same presentation.

(5) Credit may be allowed for published articles and books provided they contribute to the professional competence of the applicant. The board will determine the amount of credit awarded.

(6) Credit allowed under provi-

sions for a lecturer, discussion leader, speaker at continuing education programs, or university professor/instructor or credit for published articles and books may not exceed one half of an individual's CPE requirement for a 3-year reporting period (shall not exceed 60 hours of CPE credit during a 3-year reporting period).

(7) For a continuing education program to qualify under this rule, the following standards must be met:

(a) an outline of the program is prepared in advance and preserved;

(b) the program is at least 1 hour in length;

(c) a qualified instructor conducts the program; and

(d) a record of registration or attendance is maintained.

(8) The following programs are deemed to qualify, provided the above are met:

(a) professional development programs of recognized national and state accounting organizations;

(b) technical sessions at meetings of recognized national and state accounting organizations and their chapters; and

(c) no more than 4 hours CPE annually may be earned for board meeting attendance.

(9) University or college graduate-level courses taken for academic credit are accepted. Excluded are those courses used to qualify for taking the CPA exam. Each semester hour of credit shall equal 15 hours toward the requirement. A quarter hour credit shall equal 10 hours.

(10) Non-credit short courses - each class hour shall equal 1 hour toward the requirement and may include the following:

(a) formal, organized in-firm educational programs;

(b) programs of other accounting, industrial, and professional organizations recognized by the board in subject areas acceptable to the board;

(c) formal correspondence or other individual study programs which require registration and provide evidence of satisfactory completion will qualify with the amount of credit to be determined by the board.

(11) The board will allow up to a total of 24 hours of CPE credits for firm peer review program participation. Hours may be earned and allocated in the calendar year of the acceptance letter for the firm's CPAs participating in the peer review.

(a) Firms having an engagement or report peer review will be allowed up to 12 hours of CPE credits.

(b) Firms having a system peer review will be allowed up to 24 hours of CPE credits.

(c) Firms having a system peer

review at a location other than the firm's office shall be considered an off-site peer review and will be allowed up to 12 hours of CPE credits.

(d) The firm will report to the board the peer review CPE credit allocation listing individual firm CPAs and the number of credits allotted to each CPA. Individual CPAs receiving credit based upon a firm's report to the board may submit firm-reported hours in their annual CPA report forms to the board. If CPE credits will not be used, no firm report will be necessary.

(12) The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of the credit to be allowed for individual courses. The board will accept programs meeting the standards set forth in the NASBA CPE registry, AICPA guidelines, NASBA quality assurance service, or such other programs deemed acceptable to the board.

(13) For each 3-year reporting period, at least 96 of the hours reported shall be courses, programs or seminars whose content is in technical subjects such as audit; attestation; financial reporting; tax; management consulting; financial advisory or consulting; and other areas acceptable to the board as directly related to the professional competence of the individual.

(14) For each 3-year reporting period, at least 24 of the hours reported shall be taken outside of the individual's firm, agency, company, organization or normal work setting in a public presentation environment, which is defined as a group program, classroom, live instructor setting in which at least 10 percent of the registered participants are not members, associates, clients, or employees of the firm, agency, company, organization or normal work environment.

(15) For each 3-year reporting period, credit will be allowed once for any single course, program or seminar unless the individual can demonstrate that the content of such course, program or seminar was subject to substantive technical changes during the reporting period.

E. Programs not qualifying for CPE:

(1) CPA examination review or "cram" courses;

(2) industrial development, community enhancement, political study groups or similar courses, programs or seminars;

(3) courses, programs or seminars that are generally for the purpose of learning a foreign language;

(4) partner, shareholder or member meetings, business meetings, committee service, and social functions unless they are structured as formal programs of learning adhering to the standards prescribed in this

rule.

F. Continuing professional education records requirements: When applications to the board require evidence of CPE, the applicants shall maintain such records necessary to demonstrate evidence of compliance with requirements of this rule.

(1) Reinstatement and reciprocity applicants shall file with their applications a signed report form and statement of the CPE credit claimed. For each course claimed, the report shall show the sponsoring organization, location of program, title of program or description of content, the dates attended, and the hours claimed.

(2) Responsibility for documenting program acceptability and validity of credits rests with the licensee and CPE sponsor. Such documentation should be retained for a period of 5 years after program completion and at minimum shall consist of the following:

(a) copy of the outline prepared by the course sponsor along with the information required for a program to qualify as acceptable CPE as specified in this rule; or

(b) for courses taken for scholastic credit in accredited universities and colleges, a transcript reflecting completion of the course. For non-credit courses taken, a statement of the hours of attendance, signed by the instructor, is required.

(3) Institutional documentation of completion is required for formal, individual self-study/correspondence programs.

(4) The board may verify CPE reporting information from applicants at its discretion. Certificate holders/licensees or prospective certificate holders/licensees are required to provide supporting documentation and/or access to such records and documentation as necessary to substantiate validity of CPE hours claimed. Certificate holders/licensees are required to maintain documentation to support CPE hours claimed for a period of 5 years after course completion/CPE reporting. Should the board exercise its discretion to accept an affidavit in lieu of a CPE report, the board shall audit certificate/license holder CPE rules compliance of no less than 10 percent of active CPA/RPA licensees annually.

(5) In cases where the board determines requirements have not been met, the board may grant an additional period of time in which CPE compliance deficiencies may be removed. Fraudulent reporting is a basis for disciplinary action.

(6) An individual who has submitted a sworn affidavit on their renewal application as evidence of compliance with CPE requirements and is found, as the result of a random audit, not to be in compliance will be subject to a minimum \$250.00 fine and any other penalties deemed appropriate

by the board as permitted by Section 20B of the act.

(7) The sponsor of a continuing education program is required to maintain an outline of the program and attendance/registration records for a period of 5 years after program completion.

(8) The board may, at its discretion, examine certificate holder/licensee or CPE sponsor documentation to evaluate program compliance with board rules. Non-compliance with established standards may result in denial of CPE credit for non-compliant programs and may be a basis for disciplinary action by the board for fraudulent documentation and representation by a CPE sponsor or certificate holder/licensee of a knowingly non-compliant CPE program.

[16.60.3.15 NMAC - Rp 16 NMAC 60.6.6, 02-14-2002; A, 09-16-2002; A, 06-15-2004; A, 07-30-2004; A, 12-30-2004; A, 04-29-2005; A, 12-30-2005; A, 05-15-2006]

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.4 NMAC Section 8, effective 05-15-2006.

16.60.4.8 FIRM PERMIT APPLICATION, RENEWAL, REINSTATEMENT AND NOTIFICATION REQUIREMENTS:

A. Pursuant to Sections 12B and 13A, B, C, and I of the Act, any CPA or RPA acting as the sole proprietor, partner, shareholder or member of a legal business entity who performs or offers to perform accountancy for a client or potential client by holding themselves out to the public must obtain a firm permit to be granted authority to practice public accountancy as a CPA or RPA firm. Pursuant to Section 13F of the Act, each office of the firm within New Mexico must obtain a firm permit. All firm permit applications for initial issue, renewal, or reinstatement shall be made on board-prescribed forms and meet all information and fee requirements to be considered complete and filed with the board.

B. Renewal requirements: Deadline for receipt of firm permit renewal applications is no later than 30 calendar days prior to the expiration date printed on the firm permit. Renewal applications shall be postmarked or hand-delivered no later than the last day of the month preceding the month of expiration or the next business day if the deadline falls on a weekend or holiday. The board shall mail firm permit renewal application forms to firm permit holders no less than 30 days prior to the renewal deadline date.

C. Reinstatement require-

ments:

(1) Reinstatement due to non-renewal/expiration: Requests to reinstate a firm permit that lapsed or expired as a result of non-renewal shall be made on board-prescribed forms and meet all board-prescribed requirements for reinstatement including the current year's renewal fee and peer review program requirements. This rule shall not apply to firms whose permits lapsed or expired for a period of 3 years or more.

(2) Reinstatement applications for relief from disciplinary penalties: A firm whose permit to practice has been subject to board disciplinary action may apply to the board for modification of the board action after completion of all requirements contained in the board's original order:

(a) the application shall be in writing and substantiate the reasons constituting good cause for the relief sought; and

(b) shall be accompanied by at least 2 supporting recommendations, under oath, from practitioners who have personal knowledge of the activities of the applicant since the board action was imposed.

D. Action by the board: An application pursuant to Section 21 of the Act will be processed by the board upon the basis of the application materials submitted, supplemented by such additional inquiries the board may require. At the board's discretion, a hearing may be held on an application following procedures the board may find suitable for the particular case.

(1) The board may impose appropriate terms and conditions for firm permit reinstatement or modification of board disciplinary action.

(2) In considering a reinstatement application, the board may consider:

(a) all activities of the applicant since the disciplinary penalty from which relief is sought was imposed;

(b) the offense for which the applicant was disciplined;

(c) the applicant's activities during the time the firm permit was in good standing;

(d) the applicant's rehabilitative efforts;

(e) restitution to damaged parties in the matter for which the penalty was imposed; and

(f) the applicant's general reputation for trust and professional probity.

(3) No application for reinstatement will be considered while the applicant is under sentence for any criminal offense, including any period during which the applicant is on court imposed probation or parole.

E. Notification requirements: A firm registered pursuant to Section 13 of the Act shall file written notification with the board of any of the follow-

ing events concerning the practice of public accountancy within this state within 30 days of occurrence:

(1) formation of a new firm;

(2) change in legal form or name of a firm;

(3) firm termination;

(4) establishment of a new branch office or the closing or change of address of a branch office in this state; or

(5) the occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the act or these rules.

[16.60.4.8 NMAC - Rp 16 NMAC 60.4.11, 02-14-2002; A, 04-29-05; A, 05-15-2006]

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

This is an amendment to 16.60.5 NMAC with the addition of 16.60.5.12 NMAC as a new section, effective 05-15-2006.

16.60.5.12 CONFLICT OF INTEREST PROVISIONS:

A. A licensee shall not perform services for a client if the performance of such services will be directly or substantially adverse to another client.

B. Where the licensee has provided services to a business entity or both spouses of a marriage, the licensee's services to one client shall be deemed to be directly or substantially adverse to another client(s) after the initiation of divorce proceedings, business dissolutions, or other similar transactions unless:

(1) the licensee reasonably believes the performance of such services for one client will not adversely affect the relationship with the other client; and

(2) after consultation, each client consents in writing to allow the licensee to provide services to the other client.

C. A licensee shall not perform services for a client if the licensee's ability to perform such services may be materially limited by his responsibilities to another client or a third person or by his own interests unless:

(1) the licensee reasonably believes the performance of services will not adversely affect the relationship with the client;

(2) the relationship is disclosed to the client; and

(3) the client consents in writing after consultation.

D. A licensee shall not enter into a business transaction with a client for services other than public accountancy or knowingly acquire an ownership, security or other pecuniary interest adverse to a client unless:

(1) the transaction and terms on

which the licensee acquires the interest are fair and reasonable to the client;

(2) the terms are fully disclosed and transmitted in writing to the client in a manner that can be reasonably understood by the client;

(3) the client is given a reasonable opportunity to seek the advice of independent counsel in the transaction; and

(4) the client consents in writing thereto.

E. A licensee shall not use information relating to the performance of services for a client to the disadvantage of the client.

F. A licensee who performs services for two or more clients involved in a dispute shall not participate in making an aggregate settlement of the claims of or against the clients unless each client consents in writing after consultation. Consultation shall include disclosure of the existence and nature of all the claims or pleas involved and of the participation of each party involved in the settlement.

[16.60.5.12 NMAC - N, 05-15-2006]

NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION

LOCAL GOVERNMENT DIVISION

10.6.2 NMAC, Enhanced 911 Requirements, filed May 17, 2004, is hereby repealed and replaced by 10.6.2 NMAC, Enhanced 911 Requirements, effective May 15, 2006.

NEW MEXICO DEPARTMENT OF FINANCE AND ADMINISTRATION

LOCAL GOVERNMENT DIVISION

TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT CHAPTER 6 LOCAL GOVERNMENT LAW ENFORCEMENT AGENCIES

PART 2 ENHANCED 911 REQUIREMENTS

10.6.2.1 ISSUING AGENCY: Department of Finance and Administration, Local Government Division.

[10.6.2.1 NMAC - Rp, 10.6.2.1 NMAC, 05-15-2006]

10.6.2.2 SCOPE: The state, counties and incorporated cities, towns and villages.

[10.6.2.2 NMAC - Rp, 10.6.2.2 NMAC, 05-

15-2006]

10.6.2.3 STATUTORY

AUTHORITY: This rule is promulgated pursuant to the authority granted in Section 63-9D-8.1 NMSA 1978 and is deemed necessary to carry out the provisions of the Enhanced 911 Act, Sections 63-9D-1 et seq. NMSA 1978.

[10.6.2.3 NMAC - Rp, 10.6.2.3 NMAC, 05-15-2006]

10.6.2.4 DURATION :

Permanent.

[10.6.2.4 NMAC - Rp, 10.6.2.4 NMAC, 05-15-2006]

10.6.2.5 EFFECTIVE DATE:

May 15, 2006, unless a later date is cited at the end of a section.

[10.6.2.5 NMAC - Rp, 10.6.2.5 NMAC, 05-15-2006]

10.6.2.6 OBJECTIVE:

The objective of Part 2, Chapter 6 is to carry out the provisions of the Enhanced 911 Act. These rules and regulations are designed to assist in the development, operation and maintenance of a reliable, uniform E911 system. This act establishes a program to provide for the purchase, lease, installation and maintenance of E911 equipment, telecommunicator training, database preparation, database updates, compliance with federal communications commission (FCC) requirements for phase I and phase II wireless E911 service, and E911 network costs as necessary for an E911 system.

[10.6.2.6 NMAC - Rp, 10.6.2.6 NMAC, 05-15-2006]

10.6.2.7 DEFINITIONS:

A. "701/709 error report" means an error report provided by local exchange carriers serving a PSAP area which details the phone numbers that were not successfully loaded into the 911 ALI database due to an MSAG or other error. A "701" error indicates a house number not in MSAG range. A "709" error indicates a street not found in the MSAG.

B. "911 emergency surcharge" means the monthly uniform charge assessed on each access line in the state and on each active number for a commercial mobile radio service subscriber whose billing address is in New Mexico.

C. "911 line/trunk" means a line/trunk accessed by dialing 911 terminating at a PSAP. 911 lines on basic 911 systems are one-way incoming only. Outgoing calls can only be made while an incoming 911 call is on the trunk, to conference and/or transfer to another location.

D. "911 PSAP equipment" means the public safety answering point

(PSAP) equipment directly related to the operation of an E911 system including, but not limited to, automatic number identification (ANI) displays, automatic location identification (ALI) displays, controllers, combined ANI/ALI displays, printers, generators, uninterruptible power supply (UPS), capability for the hearing impaired (TDD) 24/7 continuous logging recorders, work stations, wireless phase I and/or II mapping equipment, software associated with the system, telephones and other miscellaneous equipment necessary to dispatch emergency E911 calls.

E. "911 service area" means the area designated by the fiscal agent, local governing body or the division to receive enhanced 911 service.

F. "Access tandem" means the device that switches 911 calls to the proper PSAP.

G. "ADA" means Americans with Disabilities Act of Act of 1990.

H. "Alternate routing" means an optional feature that is capable of automatically rerouting 911 calls to a designated alternate location if all 911 trunks from a central office or a public safety answering point (PSAP) are out of service.

I. "Answering position" means a location within a PSAP equipped with an ANI and/or ALI display, printer or electronic storage media, telephone, and / or wireless call map display that is used to receive and display incoming E911 calls.

J. "Automatic location identification (ALI)" means a feature of E911, which displays the physical address of the telephone number that is being used to place the call. It requires a data storage and retrieval system, which matches a telephone number to its physical address. ALI information can include address (including room or floor), names of law enforcement, fire and medical agencies responsible for that address, type of service (e.g., residence, PBX, Centrex, coin), and name associated with the telephone number.

K. "Automatic number identification (ANI)" means a feature of E911, and sometimes basic 911 that automatically displays the telephone number of the person placing the 911 call at the PSAP. This is normally the telephone number of the person placing the call, but not always. For example, on older PBX systems, the ANI telephone number is normally the main number of the system. Therefore, off-premises stations will be identified as if they had the main telephone number (ANI) and as if they were located at the primary address of these older PBXs.

L. "Basic 911 service" means a telephone service that automatically connects a person dialing the three-digit

number 911 to an established public safety answering point through normal telephone service facilities.

M. "Board" means the state board of finance.

N. "Called party hold" means a feature of basic 911 service that enables a PSAP telecommunicator to retain control of an incoming 911 call even if the caller hangs up.

O. "Central office (CO)" means telephone company equipment that provides telephone service to the public. More than one CO may be located in the E911 service area.

P. "Continuous logging recorder" means a device, which records date, time, voice and TDD/TTY communications, and other transactions involved in the processing of calls to and from the PSAP on a 24/7 basis.

Q. "Cost recovery plan (plan)" means the plan submitted to the division by communication mobile radio service carriers to determine allowable costs.

R. "CMRS" means communication mobile radio service carriers.

S. "Database" means information that is collected, formatted and disseminated and that is necessary for the functioning of the E911 system, including geographic information system (GIS) addressing and digital mapping information.

T. "Default routing (default answering)" means a standard feature of E911 activated when an incoming 911 call cannot be selectively routed due to ANI failure, garbled digits, or other causes.

U. "Designated agents" means other partner (s) such as the county assessor, the city and/or county GIS personnel, pueblos and/or tribes within their geographic area, vendors and any person or entity doing addressing, mapping, GIS or MSAG tasks for a PSAP.

V. "Diverse routing" means (if available) the practice of routing calls through different circuit paths in order to prevent total loss of the 911 system in the event an individual circuit is disabled.

W. "Division" means the local government division of the department of finance and administration.

X. "E911 coordinator" means the person designated by the PSAP to serve as the coordinator to work with the division and telecommunication companies regarding 911 issues.

Y. "Emergency service number (ESN) / emergency service zone (ESZ)" means a number representing a unique combination of emergency service agencies (law enforcement, fire and emergency medical service) designated to serv-

ice a specific range of addresses within a particular geographical area, or emergency service zone (ESZ).

Z. "Enhanced 911 equipment" means the public safety answering point equipment directly related to the operation of an enhanced 911 system, including automatic number identification or automatic location identification controllers and display units, printers, logging recorders and software associated with call detail recording, call center work stations, training, latitude and longitude base station or cell site location data and GIS equipment necessary to obtain and process locational map and emergency service zone data for landline and wireless callers.

AA. "Enhanced 911 service" means service which delivers ANI and ALI to the PSAP.

BB. "Enhanced 911 system (E911)" means a landline and wireless E911 system, with the aid of a database management system, mapping and electronic switching that provides rapid and reliable public service response to emergency calls. The system provides:

(1) tandem routing or selective routing of calls to the appropriate PSAP;

(2) automatic number identification (ANI) and automatic location identification (ALI);

(3) one or more access paths for communication between users in different geographic locations through a network system that may be designed for voice or data, or both and may feature limited or open access and may employ appropriate analog, digital, switching or transmission technologies; and

(4) the relay to the designated public safety answering point a wireless 911 caller's number and base station or cell site location and the longitude and latitude of the wireless 911 caller's location in relationship to the designated public safety answering point.

CC. "Fiscal agent" means the local governing body that administers grants from the fund for a given locality or region by agreement.

DD. "Fund" means the enhanced 911 fund defined by Section 63-9D-8 NMSA 1978 created in the state treasury to be used for the purchase, lease, installation or maintenance of enhanced 911 equipment as defined by Section 63-9D-3 (K) NMSA 1978 necessary for an enhanced 911 system.

EE. "GIS" means geographic information system.

FF. "GIS providers" means any individual, entity or agency creating or managing data for GIS addressing and mapping within a PSAP service area.

GG. "Forced disconnect" means a basic 911 feature, which allows a

PSAP attendant to disconnect a 911 call and prevents intentionally jamming of 911 lines by callers who refuse to hang up. E911 uses the "time-out" CO feature to "force disconnect".

HH. "Grantee" means the board of county commissioners of a county or the governing body of a municipality as defined in the Municipality Code that have received a grant pursuant to the E911 Act.

II. "Instant playback recorder" means a device that allows for the instant playback of the audio portion of a 911 call and a radio call at the E911 position.

JJ. "Local exchange access line" means a telephone line connecting a telephone to the telecommunications company's central office.

KK. "Local exchange area" means a geographic area encompassing one or more local communities served by a telecommunications company.

LL. "MSAG coordinator(s)" means the person, or in some cases, the persons responsible for assuring that the MSAG is correct and up-to-date.

MM. "Master street address guide (MSAG)" means the document or computer file that lists the physical street names (including the street prefix, suffix, and directional), address ranges, emergency service number and other routing codes used in the data management system (DMS) of an E911 system equipped with selective routing and/or automatic location identification.

NN. "Monthly recurring cost (MRC)" means costs incurred by CMRS carriers for monthly trunking (T-1's to the two 9-1-1 access tandems) and the monthly wireless systems service provider (3rd party vendor) cost.

OO. "National emergency number association (NENA)" means the national association of telecommunications professionals involved with 911 service. NENA recommends PSAP policies and guidance on wireless E911 call taking. Membership includes employees of federal, state and local government agencies, telecommunication companies, and other communications service and equipment vendors.

PP. "Network" means any system designed to provide one or more access paths for communications between users at different geographic locations; provided that a system may be designed for voice, data, or both, and may feature limited or open access and may employ appropriate analog, digital switching or transmission technologies.

QQ. "Non-recurring cost (NRC)" means one time costs incurred by CMRS carriers for initial connection fees to

the two 911 access tandems and the wireless systems service provider (3rd party vendor non-recurring) cost.

RR. "Phase I cellular service" means the wireless carriers deliver a cellular 911 call to the PSAP nearest to the caller. At the PSAP the caller's phone number (ANI) will be available along with a map location of the carrier's tower receiving the wireless call with a probability factor, mapping an area from where the caller is located. This area may range from a square mile within a municipality, to several miles along a highway.

SS. "Phase II cellular service" means the wireless carriers will not only deliver a cellular 911 call to the PSAP nearest to the caller, but provide the caller's phone number (ANI) and the caller's approximate location (ALI) using the latitude and longitude of the caller with a probability factor.

TT. "Primary public safety answering point" means a PSAP equipped with automatic number identification and automatic location identification displays, wireless mapping equipment, and the first point of reception of an E911 call. It serves the 911 service area in which it is located, and other municipalities as may be determined by the service area committee.

UU. "PSAP consolidation" means the combining of one or more PSAPs within a county to form a single PSAP to serve the constituents previously served by the individual PSAPs.

VV. "PSAP serving area" means the geographic area containing a PSAP that is capable of answering all 911 calls and responding to them appropriately.

WW. "Public safety agency" means a public agency that provides law enforcement, fire, medical, and/or other emergency services.

XX. "Public safety answering point (PSAP)" means a twenty-four-hour local communications facility that receives 911 service calls and directly dispatches emergency response services or that relays calls to the appropriate public or private safety agency.

YY. "SAU" means a specific address unknown which is a record in the ALI database (with corresponding records in the MSAG) that does not have a valid street address associated with it.

ZZ. "Secondary public safety answering point" means a facility equipped with automatic number identification, automatic location identification displays and all other features common to primary PSAPs. It receives 911 calls only when they are transferred from the primary PSAP or on an alternate routing basis when calls cannot be completed to the primary PSAP.

AAA. "Selective routing data-

base" means the routing table that contains telephone number to ESN relationships which determines the routing of 911 calls.

BBB. "Selective transfer" means that on systems with selective transfer, calls are routed to the proper secondary PSAP(s).

CCC. "Service area" means the geographic area in which one or more entities participating in a 911 system are responsible for responding to all 911 calls and for ensuring that appropriate emergency assistance is dispatched.

DDD. "Speed calling" means abbreviated dialing which can be programmed in a central office to allow calling of seven or ten digit numbers by dialing only one or two digits. On E911, a separate 30 number (two digit) speed call list may be provided for each primary and secondary PSAP as a standard feature.

EEE. "Tandem routing or selective routing" means a feature that permits an E911 call to be routed to the designated primary PSAP based upon the telephone number of the calling party. This feature routes calls to the primary PSAP responsible for emergencies at the address of the telephone placing the call based on the ANI telephone number and associated emergency service number (ESN) in the tandem office.

FFF. "Telecommunications company" means an individual, corporation, partnership, joint venture, company, firm, association, proprietorship or other entity that provides public telecommunication services capable of originating an E911 call, to include any database management company contracted to create or maintain the PSAP's MSAG.

GGG. "Telephone devise for the hearing impaired/teletype (TDD/TTY)" means a telecommunication device consisting of modems that permit typed telephone conversations with or between hearing or speech-impaired people.

HHH. "Wireless / cellular" means a telephone linked to the public switched telephone network (PSTN) via a radio link through a company providing the radio link from various tower / antenna sites through which their switching equipment connects the wireless caller to the PSTN. Phase I wireless companies connect the wireless caller to the nearest PSAP by using the cell tower location being used by the cellular caller and selective routing.

III. "WE911" means wireless enhanced 911.

JJJ. "Wireless working group (WWG)" means an advisory committee consisting of members directly involved in the phase I and phase II implementation of a PSAP and may consist of personnel from the division, the PSAP, the local

and/or Qwest telephone company, wireless call-routing vendor, NM department of public safety (DPS) and the applicable local staff that provides local geographic information services (GIS). This advisory committee serves at the discretion of the division and may dissolved when no longer needed.

KKK. "Uninterruptible power supply (UPS)" means a system designed to provide power, during a period when the normal power supply is incapable of performing up to par.

LLL. "USPS Publication 28" means an extensive standards guide authored by the United States postal service (USPS) that governs acceptable road naming and addressing standards appropriate for E911 MSAG and addressing.

MMM. "Vendor" means a person that provides enhanced 911 equipment, system, service or network support.

[10.6.2.7 NMAC - Rp, 10.6.2.7 NMAC, 05-15-2006]

10.6.2.8 INTRODUCTION:

A. In New Mexico, the responsibility and authority for delivering emergency medical services, public fire protection, and law enforcement generally rests with the state, counties, and municipalities. This is true even when supplemental services are performed by others, such as private ambulance companies or independent public authorities and non-profit organizations with limited internal fire protection and security forces.

B. An E911 telephone emergency system provides:

(1) expansion of the capabilities of the basic 911 emergency telephone number;

(2) faster response time, which minimizes the loss of life and property;

(3) automatic routing to the appropriate public safety answering point;

(4) immediate visual display of the telephone number, name, and address or location of the calling party; and

(5) identifies callers, curtailing abuse of the emergency system.

[10.6.2.8 NMAC - Rp, 10.6.2.8 NMAC, 05-15-2006]

10.6.2.9 GUIDELINES:

A. Guidelines for basic and E911 service, system, equipment and network design and maintenance shall be established by the division following the best nationally accepted concepts and operating practices.

B. E911 call information shall follow the national NENA standards.

[10.6.2.9 NMAC - Rp, 10.6.2.9 NMAC, 05-15-2006]

10.6.2.10 DATABASE DEVELOPMENT REQUIREMENTS:

A. Database:

(1) The grantee and its designated agents shall work with the telecommunication company(s) to verify street names, address number ranges, and emergency service zones (ESZ), postal community and other information needed to create MSAG. These same agents shall also work to assign and/or verify the 9-1-1 address associated with each landline telephone number within the PSAP's geographic boundary. All database information shall be provided to the telecommunication company(ies) in the format specified by the telecommunication company(ies) for the initial load of these databases. All road name and community database information shall be submitted and maintained in format and content compliant with the USPS Publication 28.

(2) The E911 coordinator, as defined by Subsection D of 10.6.2.11 NMAC, or his/her appointed MSAG coordinator(s), shall ensure that changes and additions to road network and the emergency service boundaries (ESZ) in the geographic boundary of the PSAP are communicated to the telecommunications company(ies) in the form of MSAG updates on a continuous and timely basis. The telecommunications company(ies) shall dictate the format and transmission method of these MSAG updates. The E911 coordinator or his/her appointed MSAG coordinator(s) and the telecommunications company shall ensure that all submitted changes, deletes and additions to the master street address guide (MSAG) are changed, deleted or added in the loaded MSAG maintained by the telecommunications company(ies). The E911 coordinator or his/her appointed MSAG coordinator(s) shall thoroughly review the loaded MSAG periodically, no less frequently than once a month, to ensure that submitted changes, deletes and additions have been properly made and entered by the telecommunications company(ies).

(3) All PSAPs shall conduct a yearly review of the MSAG, ALI and GIS databases to ensure the data in these documents is accurate and synchronized. The review shall:

(a) include the following information requested by each PSAP from the serving telecommunications company(ies) and database provider(s):

(i) complete MSAG extract for entire PSAP boundary area;

(ii) complete ALI extract for entire PSAP boundary area, to include SAUs, if any;

(iii) complete 701/709 error reports from all serving local exchange providers (telecommunications company(ies));

(iv) number of landline phones within PSAP boundaries;

(v) road centerline layer(s); and

(vi) ESZ layer(s);

(b) include output that documents a 96% or higher MSAG accuracy rate:

(i) the process used shall determine the number of accurate ALI records, after adjustment for SAUs, by comparison of a new MSAG extract to a new ALI extract; the house number, road name and ESN for each ALI record must match a corresponding MSAG record; the accuracy formula is the number of accurate ALI records found in this comparison divided by the total number of landline access numbers; this rate must equal 96% or higher;

(ii) list of SAUs found in the MSAG and ALI extracts with a timeline for correction of SAUs;

(iii) list of roads/road segments that appear in the MSAG that do not appear in the GIS; and

(iv) list of roads/road segments that appear in the GIS but that do not appear in the MSAG;

(c) be submitted annually to the division and shall be shared with E911 coordinator and GIS providers; the E911 coordinator and/or his/her designated agents, together with the GIS providers, shall work to correct these errors and inconsistencies and distribute the corrections to the appropriate telecommunications agencies, as indicated.

(4) The division requires that all municipal and county public safety answering points (PSAPs) maintain accurate MSAG, ALI and GIS databases. Except as provided for in Paragraph (5) of Subsection A of 10.6.2.10 NMAC, beginning on December 31, 2006 the MSAG and ALI must be maintained at 96% or higher accuracy. This means 96% of all landline telephone numbers in the PSAP area must be matched with MSAG-valid 9-1-1 addresses and these addresses must be loaded in the ALI database. PSAPs shall meet the required accuracy levels as a precondition to applying for and receiving funding for E911 equipment upgrades from the fund.

(5) Exceptions to Paragraph (4) of Subsection A of 10.6.2.10 NMAC may be requested in writing to the secretary of the department of finance and administration by submittal of a written plan detailing how the PSAP shall achieve the accuracy rate of 96%.

(a) The plan shall include the tasks to be completed, completion dates, individuals or entities involved and shall designate one person responsible for successful and timely execution of the plan.

(b) The secretary's decision on granting or denying an exception to Paragraph (4) of Subsection A of 10.6.2.10

NMAC is final and not appealable.

(c) The division shall continue to work with PSAPs that are denied an exception to Paragraph (4) of Subsection A of 10.6.2.10 NMAC to develop an acceptable plan.

(6) All telecommunication companies shall update the "selective routing database", MSAG and ALI within 48 hours of completion of a service order by the telecommunication company. Telecommunication companies shall ensure that all submitted changes, deletes and additions have been applied to the telecommunication databases in a timely manner. If required by telecommunication companies, the E911 coordinator or his/her appointed MSAG coordinator(s) will provide a yearly summary of changes submitted in the past year to the telecommunication company(ies).

B. ALI:

(1) Every telecommunication company providing ALI shall present uniform data, as defined by the NENA standards.

(2) The ALI shall be displayed and printed or archived immediately in the database when the 911 call is made.

(3) Each ALI data set shall include as a minimum:

(a) area code and telephone number;

(b) class of service;

(c) time in a 24-hour format (may be printed and not displayed);

(d) date (may be printed and not displayed);

(e) subscriber name or designation of non-published number;

(f) house (building) number;

(g) house number (building) suffix;

(h) directional prefix (NE, NW, SE, SW);

(i) street name including type;

(j) emergency service number location;

(k) community name;

(l) the state name;

(m) emergency service number;

(n) pilot number;

(o) emergency service number translation;

(p) any comments present;

(q) emergency response names of law enforcement, fire and EMS.

(4) ALI information shall use conventional English or NENA standard abbreviations where necessary and shall not use single letter or digit codes.

C. Database development of physical addresses: Addressing guidelines in addition to the requirements of this rule shall be established by the division. These guidelines must be followed by grantees that seek reimbursement for costs

from the fund.

D. Other classes of service:

(1) The wireless working group shall advise the division on the development of procedures for:

(a) the delivery of cellular / wireless service to the 911 service area, and;

(b) the establishment of a statewide standard PSAP screen display format for the phase I and phase II information.

(2) Personal communications networks and any other future mobile and/or personal communications systems shall also be required to adhere to Subsection D of 10.6.2.10 NMAC above.

(3) Effective May 28, 2004, all new or upgraded customer owned or leased private branch exchanges (PBX) will incorporate a software package that when 911 is dialed from any extension, the extension number, name of the extension user, building address, room number and building floor, is passed through to the proper PSAP handling the call

(4) Effective May 28, 2004, the owner or lessee shall remit to the department of taxation and revenue the E911 surcharge for each activated telephone extension on the PBX.

[10.6.2.10 NMAC - Rp, 10.6.2.10 NMAC, 05-15-2006]

10.6.2.11 PSAP EQUIPMENT, ACQUISITION AND DISBURSEMENT OF FUNDS:

A. The PSAP equipment must be capable of handling emergency call volumes to meet the needs of the public. This equipment must be compatible with that of the telecommunication company providing the 911 network and database.

B. In order to qualify for a PSAP, an applicant shall have a 24 hour, 7 days per week (24/7) communication facility.

C. A public safety answering point, at a minimum shall be equipped with the following features:

(1) ANI;

(2) ALI;

(3) call detail information;

(4) default routing (default answering) until selective routing is approved by the division;

(5) ability to print call detail information with either paper or electronic media;

(6) ability to transfer voice or TDD/TTY and data;

(7) selective and fixed button transfer on E911 systems;

(8) a minimum of thirty (30) minutes uninterruptible power supply;

(9) TDD/TTY communications capability at each 911 answering position;

(10) switch hook status;

(11) for basic 911 be able to “ring back”, i.e. phone back the 911 caller, put the caller on hold; disconnect the caller;

(12) 911 related calls, which pass through switching equipment, must provide transfer, conference, speed dialing and supervision of all calls until successfully transferred or terminated;

(13) each PSAP shall be equipped with at least one E911 answering position; when there is more than one answering position, they shall be similarly equipped with access to all incoming 911 lines, outgoing dedicated/switched lines, tie lines, and dial out lines;

(14) each PSAP shall be equipped with a continuous logging recorder; this logging recorder shall have:

(a) the capacity to record both sides of a conversation on each incoming 911 call and all radio communications while dispatching the 911 call;

(b) the ability to continuously document the year, date and time of each recorded event and the capability to record both voice and TDD/TTY;

(15) to maintain reliability, each PSAP shall be equipped with instant playback voice recorders at each call answering and radio position;

(16) each 911 trunk will have incoming emergency calls identified by both audible and visual and different indicators for landline and wireless trunks;

(17) each PSAP shall have sufficient 911 answering positions and staff to ensure that ninety percent (90%) of all 911 calls are answered in no more than ten (10) seconds and the balance of the calls within twenty (20) seconds during normal peak operating periods; staffing levels may vary during the working day to meet this requirement;

(18) for quality assurance and training purposes, PSAP answering equipment shall be provided for supervisors so they can monitor incoming emergency calls;

(19) each PSAP may be provided equipment furniture to adequately support the E911 and radio equipment, and the telecommunicators and dispatchers;

(20) each PSAP will have a back-up generator capable of keeping the PSAP operating until commercial power is restored; and

(21) each PSAP will have a written agreement with a fully equipped PSAP capable of taking the PSAP’s calls and dispatching the appropriate emergency response; PSAP transfer is accomplished by use of the “make busy” circuit, or calling the E911 center to reroute their 911 calls to the agreed upon PSAP.

D. PSAP administration:

(1) Every grantee participating in

the E911 system shall designate someone to serve as a coordinator to work with the division and the telecommunication company regarding 911 issues.

(2) All coordinators working with the division and the telecommunication company regarding 911 issues will have personal work email address for receiving information regarding training classes, consolidation efforts, and transmittal of information required by this office.

(3) Only incorporated municipalities, counties, state police or native American tribes or pueblos, public safety agencies or their authorized agents may receive 911 calls.

(4) The 911 number shall be used to receive incoming emergency calls transferred to the PSAP by other PSAPs for certain alternate and default routing arrangements.

(5) 911 trunks shall not be used to make outgoing calls, but may be used to make outgoing transfer 911 calls if there is an incoming 911 call on the line/trunk.

(6) 911 trunks shall be used solely to receive emergency 911 calls at primary PSAPs and the transfer of 911 calls to another PSAPs.

(7) There shall be at least one PSAP operating 24 hours a day within the 911 service area. Municipalities and counties shall participate and assist with the operational costs necessary to maintain the service.

(8) Each PSAP shall maintain an up-to-date detailed profile of the PSAP. This profile shall include at a minimum:

(a) exact address of the PSAP;

(b) number and type of positions;

(c) type of equipment to include E911 call answering equipment, telephone switching equipment, wireless mapping equipment; and CAD system, radio system, and make and model of UPS and back-up generator;

(d) number and type of dedicated/switched voice/data circuits;

(e) routing central office and PSAP end office;

(f) maintenance control center to include name of company, physical address, telephone number, email address, and your point of contact for E911 equipment and voice logging recorder, if different from E911 equipment maintainer;

(g) PSAP coordinator and alternate contact name, address, phone number, and their PSAP email address;

(h) type and manufacturer of CAD system, if any, and type and manufacturer of voice logging recorder;

(i) GIS representative to include physical address, telephone number, and email address.

(9) Each PSAP shall maintain at

least one unpublished seven-digit emergency number. This number shall also be used to receive incoming emergency calls transferred to the PSAP by other PSAPs for certain alternate and default routing arrangements.

(10) The PSAP shall be responsible for coordinating the “emergency service listing” on the inside front page(s) of their local telephone directories. Each PSAP will have a published seven-digit number for non-emergency calls

(11) Subscriber information provided in accordance with the 911 system shall be used only for the purpose of responding to emergency calls or for use in any ensuing investigation or prosecution directly resulting from a 911 call, including the investigation of false or intentionally misleading reports of incidents requiring emergency service.

(12) All voice and TDD/TTY recordings of incoming 911 calls shall be retained in accordance with state records center and archives regulations for municipal police and county sheriff records.

(13) Except for those devices, such as TDD/TTY, used by disabled persons requesting emergency assistance, no individual or company shall be allowed to send an automatic alarm or use an alerting device that causes 911 to be automatically dialed and to transmit a prerecorded signal or message to the PSAP on a 911 line.

(14) PSAP personnel shall program and maintain a list of the fixed and auto-dial transfer features. This feature will allow the PSAP to use the dedicated/switched 911 network to transfer 911 calls pertaining to emergencies outside its jurisdiction, to the appropriate PSAP. When a 911 caller is transferred, the transferring PSAP shall announce to the receiving PSAP that they are transferring a call for service. Will remain on the line and will inform the receiving PSAP that this is a transferred call for service.

(15) Call handling procedures and other related PSAP operations shall be implemented according to the training guidelines established by the division. Each PSAP shall have the ability to:

(a) transfer 911 calls to their back-up PSAP or another PSAP within or outside their 911 service area;

(b) directly dispatch public safety services or relay information to a public safety agency; all PSAPs that transfer 911 calls to a 7-digit administrative telephone line for the purpose of an outside the PSAP agency dispatching emergency services will obtain from, and have on file, a release of liability from the dispatch agency, and must forward a copy of the release to LGD for file; or,

(c) directly dispatch public safety

services.

(16) Any emergency unit dispatched to a location outside its jurisdiction in response to a request shall render services to the requesting party until relieved by the public safety agency responsible for that geographical area.

(17) All PSAPs shall be staffed 24-hours-a-day, seven-days-a-week, and operated by personnel certified by the state department of public safety pursuant to Section 29-7A-4 NMSA 1978, as amended. Staffing levels may vary during the working day to meet this requirement.

(18) Special circumstances:

(a) In accordance with ADA each PSAP shall establish procedures to handle calls from speech and hearing impaired individuals via TDD/TTY including the use of TDD call detectors and diverters.

(b) PSAPs shall develop procedures for handling an unanswered or silent 911 call and are urged to dispatch a public safety response unit(s) if the PSAP receives no response to the call back.

(19) Every PSAP will prepare an annual report for the division to include the information in Paragraphs (8), (9), (14) and (18) of Subsection D of 10.6.2.11 NMAC, above. Send the report electronically (email), or if email is not available, by regular mail to arrive at the division not later than June 30th of each year.

(20) Callers to 911 may only be transferred once to another PSAP. If, after the transfer, the 911 caller is not connected to the appropriate PSAP, the receiving PSAP shall take all of the necessary information to handle the call and then contact the appropriate PSAP for response.

(21) When a 911 caller is transferred, the transferring PSAP shall announce to the receiving PSAP that they are transferring a call for service. The transferring PSAP may stay on the line until such time as they are released.

(22) Each PSAP shall devise a contingency plan to provide continued emergency service when the PSAP is out of service.

E. Funding, eligible costs:

(1) The cost of enhanced 911 equipment necessary to provide E911 service may be recovered from the fund, including costs associated with the purchase, lease, installation of enhanced 911 equipment as well as enhanced 911 equipment furniture, training, and maintenance, with the exception of CAD, mobile and portable radio equipment and logging recorder maintenance.

(2) Money for other equipment indirectly related to the E911 system is the responsibility of the grantee, unless, the division approves of such equipment.

(3) The network capability costs and database and services necessary for an

E911 system can be recovered from the fund.

(4) Costs for addressing including equipment and labor may be funded based upon demonstrated need and the availability of funds. Demonstrated need may include the maintenance on all software that the GIS / rural addressing departments use to create data for the PSAPs.

(5) Grantees that have received approval from the division may incur and recover course registration costs to train telecommunicators and GIS personnel from the fund.

(6) Upon prior approval of the division, travel mileage and / or per diem for telecommunicator and GIS personnel training may be reimbursed, while any request for travel mileage and / or per diem without prior approval will NOT be reimbursed.

(7) Mapping equipment and network for wireless phase I and phase II, and cost recovery for wireless service providers.

F. Funding, ineligible costs:

(1) basic termination charges incurred due to the disconnection of telephone equipment to be replaced with 911 equipment;

(2) capital outlay expenditures, such as, buildings, remodeling, moveable chattels, communication towers and equipment not directly related to a 911 telecommunicator position;

(3) mobile radios, pagers or cellular telephones;

(4) seven-digit transfer-to-lines;

(5) incoming emergency seven-digit line group;

(6) costs associated with implementing or maintaining basic or E 911 systems or features not approved in writing by the division;

(7) private line circuit costs unless approved by the division;

(8) directory listings;

(9) call volume indicators used after the initial twelve month implementation or when not otherwise justified;

(10) maintenance costs for radio equipment and other miscellaneous equipment that is not determined to be 911 PSAP equipment;

(11) direct or indirect overhead costs, such as contributions to retirement, health insurance, labor, departmental operation overhead, rent, utilities or building remodeling;

(12) Reimbursement for equipment not previously approved by the division prior to purchase.

[10.6.2.11 NMAC - Rp, 10.6.2.11 NMAC, 05-15-2006]

10.6.2.12 REVIEW AND APPROVAL PROCESS:

A. After requesting enhanced 911 service from a telecommunications company or CMRS, a local governing body, acting as the fiscal agent for a PSAP, may by ordinance or resolution, recover from the fund an amount necessary to recover the approved costs of providing the enhanced 911 system in its designated 911 service area.

B. The PSAP and its fiscal agent make a formal written request to the E911 program manager at the division for funding assistance in upgrading their current equipment or adding new equipment to meet new PSAP responsibilities or other eligible costs.

C. If applicable, a project manager from the division will make a site visit to the PSAP to determine the need and funding eligibility for the requested equipment and its conformance with advancing short or long-term policy to consolidate PSAPs.

D. If after discussions with the PSAP manager and his/her clients, the division believes the request has merit, is eligible for funding, and is consistent with PSAP consolidation policy, the PSAP in conjunction with the division will request price proposals from appropriate state price agreement vendors. The division promotes the consolidation of PSAPs and discussions will be held with all participants to determine the feasibility of consolidation. Discussion items will consist of the following:

(1) age and useful life remaining of existing equipment;

(2) estimated maintenance costs of continued use of existing equipment;

(3) equipment manufacturer's commitment to continued maintenance support of the existing equipment;

(4) continued use of analog technology vs. updating to digital technology;

(5) potential impact of wireless E911 implementation on PSAP and its continued use of existing equipment;

(6) PSAP vendors and telephone companies' readiness to install equipment;

(7) desire of PSAPs and their clients to consolidate all PSAP / dispatch functions at that time; and,

(8) the municipal and county governments' ability to fund supporting infrastructure for a consolidated PSAP.

E. If the division determines the request does not have merit or there is inadequate funding available for the request, it will be returned to the PSAP as "not approved by the division".

F. Validated PSAP requests that have passed the above process, will be forwarded in writing by the PSAP and the PSAP's fiscal agent to the division director for approval to place the request(s) on the board of finance meeting agenda.

G. Any item(s) that the division director determines are inappropriate will not be approved for inclusion in the board's meeting agenda. Rejected requests will be returned to the PSAP as "not approved by the division".

H. The division will present the E911 funding project list to the board for approval.

I. Fully executed grant agreement(s) and subcontract(s) shall be provided to the division for the official file. If necessary, subcontracts shall be procured in accordance with the New Mexico Procurement Code and applicable regulations.

[10.6.2.12 NMAC - Rp, 10.6.2.12 NMAC, 05-15-2006]

10.6.2.13 GEOGRAPHIC INFORMATION SYSTEMS (GIS)

STANDARDS: In order to ensure that road centerline shapefiles can be effectively used and integrated at a statewide level, standards are needed for attribute data consistency and the development of spatial data by entities creating them with geographic information systems (GIS). Pursuant to 63-9D-4 NMSA 1978, a local governing body in an enhanced 911 service area shall provide GIS addressing and digital mapping to the PSAP that provides enhanced 911 service to the local governing body, as follows:

A. The attribution data content shall be derived from standards established by the national emergency number association (NENA). The attribution data format and structure is also based on, but not identical to, NENA standards.

B. The datum for geographic data shall be North American Datum 1983 (NAD 83) and the data shall be in a New Mexico state plane or universal transverse mercator (zone 12 or 13) projection. The geographic data shall be spatially complete for each GIS entity's defined area of responsibility, but must not extend past their geographic area of responsibility. Additionally, any road feature that extends beyond one entity's geographic area of responsibility shall align with the same feature maintained by the adjacent entity.

C. Spatial accuracy of geographic features is required to be such that they are representative of the actual feature at a scale of 1:5000. All geographic features shall have clean topology and shall be able to be utilized to form a statewide road network with connectivity. All attribution and geographic data shall be kept current through regular maintenance.

D. To ensure accurate dispatch call mapping, attribute data associated with GIS data shall be synchronized with MSAG and ALI data. This attribute data includes all components of road name and

address ranges. Road name designations, including spelling, directional use, suffix types and abbreviations, shall match the road name values used in the MSAG. Road ranges in the GIS shall match or be included in road ranges in the MSAG.

E. The PSAP shall update the MSAG within 10 working days to reflect changes in addressing and mapping. [10.6.2.13 NMAC - Rp, 10.6.2.13 NMAC, 05-15-2006]

10.6.2.14 PLANNING AND IMPLEMENTATION OF ENHANCED WIRELESS SERVICE:

A. E911 service to include phase I and phase II wireless shall be provided to the entire telecommunication company(s) service area(s) and should be implemented on a countywide or regional basis.

B. Where a telecommunication company's local exchange area extends into or encompasses two or more E911 service areas, the wireless working group (WWG) shall be responsible for initiating and establishing E911 wireless service areas.

C. The division shall have final approval authority after the PSAP and the telecommunication company identifies the need for selective routing and the associated network through which all calls for service are to be processed. The WWG through the division shall have final authority over the selective routing of the wireless venter coverage areas.

D. If the grantee, the E911 coordinator or the MSAG coordinator(s) requests a MSAG and/or a copy of the telecommunication company's "old-to-new" records in either printed or electronic format the telecommunication company shall comply within 20 working days.

E. When the MSAG and ALI have been completed and loaded onto the database, they shall be jointly owned by the PSAP and the telecommunications company.

F. The telecommunication company shall provide an updated MSAG to the PSAP upon installation completion and thereafter as requested by the PSAP.

G. The data management system and selective routing database shall be updated by the telecommunication's company within 48 hours of completion of a service order by the telecommunications company.

H. The division shall have final approval authority of the addressing system, and GIS system used to develop the database adequate to support E911 and E911 wireless services.

[10.6.2.14 NMAC - Rp, 10.6.2.14 NMAC, 05-15-2006]

10.6.2.15 PSAP CONSOLIDATION:

A. The division requires that municipal and county public safety answering points (PSAPs) within their contiguous county boundaries consolidate their 911 call answering and radio dispatch functions within one consolidated PSAP in the county. Only the consolidated PSAP in the county may apply for and receive funding for E911 equipment, equipment maintenance, training reimbursement, trunk and ALI lines; and E911 call taking and mapping equipment from the E911 fund for phase I and phase II enhanced wireless service.

B. Albuquerque police department PSAP and Bernalillo county's PSAP are excluded from 10.6.2.15 NMAC due to the large population served. The department of public safety district PSAPs; and native American pueblos and tribal police and also excluded from 10.6.2.15 NMAC.

C. Exceptions to 10.6.2.15 NMAC may be requested in writing with full justification to the division.

(1) Justification shall include cost considerations, population served, and proximity to the PSAP's back-up PSAP.

(2) The division's decision on granting an exception to 10.6.2.15 NMAC is final and not appealable.

D. Municipal and county PSAPs within one county's contiguous boundaries have one year from May 28, 2004 to develop a consolidation plan and enter into an approved joint powers agreement (JPA) for the consolidation of their E911 call answering and radio dispatch functions within one consolidated PSAP in the county.

(1) Consolidation plans will be approved / disapproved by the division.

(2) PSAPs shall consolidate in accordance with the plan, unless granted an exception, as a precondition to applying for and receiving funding for E911 equipment upgrades from the fund.

(3) If the consolidation plan and JPA requirements are not met, the applicable 911 grant agreement with the PSAPs governing bodies may be terminated in accordance with the terms and conditions of the grant agreement.

E. The division will work with municipal and county governments to prepare their consolidation plan in order to meet the requirements identified in this section.

[10.6.2.15 NMAC - Rp, 10.6.2.15 NMAC, 05-15-2006]

10.6.2.16 TELECOMMUNICATOR / DISPATCHER TRAINING:

Pursuant to Section 63-9D-4A NMSA 1978,

the local governing body shall require the PSAP to employ properly trained staff pursuant to the Public Safety Telecommunication Training Act. Telecommunicators and dispatchers will be certified for two years and recertified for two-year intervals after that. In order to maintain certification, 20 hours of specified training will be required in each two-year interval. Course requirements needed for recertification are listed in 10.29.7 NMAC. Each PSAP manager or supervisor will appoint in writing a training officer. The training officer's name, duty phone number, and email address will be forward to the division, and resubmitted whenever the training officer is replaced. The training officer will be responsible for the following:

- A. development of PSAP policies and procedures for ensuring every telecommunicator and dispatcher receives the required training;
- B. keeping accurate written records on each individual's training; and
- C. submitting, through the PSAP manager or supervisor, semi-annual reports in June and January to the division on the PSAP's training progress to include; number of telecommunicators and dispatchers trained, and the courses completed by each individual; and type and amount of training yet to be completed, and any problems encountered in meeting the training requirements of 10.29.7 NMAC; for information on training reimbursement see Subsection E of 10.6.2.11 NMAC. [10.6.2.16 NMAC - Rp, 10.6.2.16 NMAC, 05-15-2006]

10.6.2.17 WIRELESS COST RECOVERY GUIDELINES: After requesting WE911 (wireless enhanced E911) from a CMRS, local governing bodies may, by ordinance or resolution in a form specified by the division, recover from the fund pursuant to Subsection G of Section 63-9D-8 NMSA 1978, the CMRS wireless enhanced 911 service carrier costs that meet the requirements in 10.6.2.17 NMAC. Pursuant to Subsection G of Section 63-9D-8 NMSA 1978, the division, on behalf of local governing bodies, shall directly pay or reimburse CMRS for their costs of providing WE911 service. In order to maintain adequate funding in the fund to provide enhanced 911 service and equipment to local governing bodies pursuant to Section 63-9D-8 NMSA 1978, the division shall reimburse only costs incurred by CMRS to provide enhanced wireless 911 service to municipal and county public safety answering points that are in accordance with the following:

- A. All CMRS carriers shall submit a detailed cost recovery plan (plan), invoices and status reports to the

division that meet the following criteria.

(1) The plan and invoices shall include the one time, non-recurring cost (NRC) incurred by the CMRS carrier for the connection fee to the two 911 access tandems and the NRC for the wireless systems service provider (3rd party vendor).

(2) The plan and invoices shall include the CMRS carrier's monthly recurring (MRC) for trunking (T-1's to the two 911 access tandems) and the MRC for the wireless systems service provider (3rd party vendor).

(3) All other CMRS carrier costs are not currently eligible for cost recovery.

B. A plan or invoice submitted on behalf of a CMRS carrier by a third party shall include a letter of agency between the third party and the carrier, or have the letter on file. No plan or invoice submitted by a third party agent will be reviewed until the division receives notice of agency from the CMRS carrier.

C. The plan shall be submitted yearly by March 31st as a comprehensive statewide plan based on current circumstances. The plan shall detail the number of cell sites and the number of subscribers in each county, and the projected NRC and MRC for each county based on the current guidelines for cost recovery, including the type of wireless services you are providing; the jurisdictions (cities and counties) in which you provide wireless services, the wireless network service provider with which you have a reseller relationship, the number of customers or subscribers you have in New Mexico, the legal entity name, remittance name and tax number that you use to make tax remittances to the state of New Mexico; and the appropriate person within your organization and their contact information to discuss related tax items, remittances and which to address any additional questions.

D. The plan shall contain a detailed explanation of each cost item included.

E. The plan shall include a map designating the licensed area and the actual coverage area.

F. The plan shall include a sample monthly invoice from the CMRS carrier. The invoice must clearly separate MRC and NRC charges, by county. The division shall pay only the carrier. No third party agents shall be paid.

G. The plan shall be signed by an authorized official of the CMRS carrier or the third party agency and must be dated.

H. Once a CMRS carrier's plan is approved, invoices may be submitted per the guidelines.

I. Quarterly, the FCC wireless telecommunications bureau requires submission of a wireless carrier

E911 deployment report. CMRS carriers shall provide an electronic copy of the New Mexico portion of the excel spreadsheet (appendix portion) to the division within 5 days of submission to the FCC.

J. Periodically, the division may request CMRS carriers to furnish additional information for the planning, coordination and implementation of wireless enhanced 9-1-1.

K. To be considered and approved by the division, each CMRS carrier shall follow these procedures:

(1) CMRS carrier cost recovery shall initially be allowed a one-time \$0.50 per subscriber NRC and a monthly \$0.05 per subscriber MRC, based on actual deployments. In addition, one-time access costs of approximately \$450 per T-1 NRC and \$900 per T-1 MRC for trunking to connect to each access tandem shall be allowed.

(2) CMRS carriers shall submit a valid department of treasury internal revenue department form W-9 to establish vendor status and allow cost recovery remittances to be processed when invoices are received. Refer to the IRS website at <http://www.irs.gov/pub/irs-pdf/fw9.pdf> for the form.

(3) CMRS carrier invoices shall not exceed trunking cost allowances, the one-time \$0.50 NRC per subscriber, the monthly \$0.05 per subscriber MRC, based on actual deployments, and the allowed trunking NRC and MRC. Partial payment against an invoice is not allowed.

(4) CMRS carrier invoices will be processed, approved and disbursed on a monthly basis.

(5) Requests from new CMRS carriers shall be reviewed on a case-by-case basis.

[10.6.2.17 NMAC - N, 05-15-2006]

HISTORY OF 10.6.2 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the State Records Center and Archives under:

DFA-LGD Rule No. 93-3, Enhanced 911 Rules and Regulations, filed 5-20-94.

History of Repealed Material:

10 NMAC 6.2, Enhanced 911 Requirements, filed 2/2/98 - Repealed effective 5-28-2004.

10.6.2 NMAC, Enhanced 911 Requirements, filed 5-17-2004 - Repealed effective 05-15-2006.

**NEW MEXICO PUBLIC
EDUCATION
DEPARTMENT**

**TITLE 6 PRIMARY AND
SECONDARY EDUCATION
CHAPTER 75 INSTRUCTIONAL
MATERIALS AND TECHNOLOGY
PART 5 RELATING TO THE
IMPLEMENTATION OF THE
SCHOOL LIBRARY MATERIAL ACT**

6.75.5.1 ISSUING AGENCY:
Public Education Department
[6.75.5.1 NMAC - N, 05-15-06]

6.75.5.2 SCOPE: This rule governs the procedures for the allocation, distribution and use of funds to purchase materials for school libraries.
[6.75.5.2 NMAC - N, 05-15-06]

6.75.5.3 STATUTORY AUTHORITY: This rule is promulgated pursuant to Sections 9-24-8 and 22-15C-1 et seq. NMSA 1978.
[6.75.5.3 NMAC - N, 05-15-06]

6.75.5.4 DURATION:
Permanent
[6.75.5.4 NMAC - N, 05-15-06]

6.75.5.5 EFFECTIVE DATE:
May 15, 2006, unless a later effective date is cited at the end of a section.
[6.75.5.5 NMAC - N, 05-15-06]

6.75.5.6 OBJECTIVE: This rule is designed to facilitate the allocation, distribution and use of funds to purchase materials for school libraries.
[6.75.5.6 NMAC - N, 05-15-06]

6.75.5.7 DEFINITIONS:

A. "Additional student" means a student in the certified forty-day membership of the current year for a school district, charter school or state institution above the number certified in the forty-day membership of the prior year for the school district, charter school or state institution.

B. "Bureau" means the instructional material bureau of the department of education.

C. "Chief" means the chief of the state instructional material bureau.

D. "Department" means the public education department.

E. "Fund" means the school library material fund.

F. "Library material processing" means cataloging of school library material, including in electronic format, according to nationally accepted standards, and the application of bar code labels and

call-number classifications labels to the material.

G. "Membership" means the total enrollment of qualified students on the fortieth day of the school year entitled to the free use of school library material pursuant to the School Library Material Act.

H. "School library material" means books and other educational media, including online reference and periodical databases, that are made available in a school library to students for circulation and use in the library.
[6.75.5.7 NMAC - N, 05-15-06]

**6.75.5.8 REQUIREMENTS:
RESPONSIBILITIES OF THE
DEPARTMENT**

A. The department will administer the provision of the School Library Material Act [22-15C-1 to 22-15C-10 NMSA 1978] as follows:

(1) allocate and distribute money to school districts, charter schools and state institutions from the fund to pay for the cost of purchasing school library material; the cost of purchasing school library materials may include shipping and handling charges for the delivery of school library material;

(2) enforce rules for the handling, safekeeping and distribution of school library material and money from the fund; and

(3) withdraw or withhold the privilege of participating in the free use of school library material in case of noncompliance with the provisions of the School Library Material Act or this rule.

B. On or before July 1 of each year, the department shall distribute from the fund at least ninety percent of the estimated entitlement for each school district, charter school or state institution as determined from the forty-day membership of the previous school year. Additional students shall be counted as six students for the purpose of the allocation.

C. On or before January 15 of each year, the department shall recompute each entitlement using the forty-day membership for that year and shall allocate the balance of the annual appropriation adjusting for and over- or under-estimation made in the first allocation.

D. Annually, the department will submit a budget for the next fiscal year to the department of finance and administration showing expenditures for school library material to be paid from the fund, including reasonable shipping and handling charges and library material processing expenses.
[6.75.5.8 NMAC - N, 05-15-06]

**6.75.5.9 REQUIREMENTS:
RESPONSIBILITIES OF LOCAL**

**SCHOOL BOARDS OR GOVERNING
AUTHORITIES**

A. A school district, charter school or state institution shall purchase school library material as an agent for the benefit of students entitled to the free use of school library material.

B. A school district, charter school or state institution is responsible for circulation of the school library material for use by eligible students and for the safekeeping of the school library material.

C. With the approval of the bureau, school library material may be sold at a price determined by officials of the school district, charter school or state institution. The selling price may not exceed the cost of the material.

D. A school district, charter school or state institution may hold a parent, guardian or student responsible for loss, damage or destruction of school library material while it is in the possession of a student. A school district or charter school may withhold the grades, diploma and transcripts of a student responsible for damage or loss of school library material until the parent, guardian or student has paid for the damage or loss. When a parent, guardian or student is unable to pay for the damage or loss, the school district or charter school shall work with the parent, guardian or student to develop and alternative program in lieu of payment. Where a parent or guardian is determined to be indigent according to guidelines established by the department, the school district shall bear the cost.

E. A school district, charter school or state institution shall keep an accurate record of school library material that includes a cost record. A school district or state institution shall comply with record-keeping procedures prescribed by the bureau.

F. Annually, at a time specified by the department, each local school district and state institution acquiring school library material shall file a report with the department.
[6.75.5.9 NMAC - N, 05-15-06]

**HISTORY OF 6.75.5 NMAC:
[RESERVED]**

**NEW MEXICO PUBLIC
EDUCATION
DEPARTMENT**

This is an amendment to 6.75.2 NMAC. Section 9 is amended to clarify the requirements for delivery of supplemental requisitions.

6.75.2.9 REQUIREMENTS:

RESPONSIBILITIES OF LOCAL SCHOOL BOARDS OR GOVERNING AUTHORITIES

A. Each local school board shall develop and implement a process for the selection of instructional materials and shall ensure that parents and other community members are involved in the implementation of this process.

B. Schools and districts must submit to depositories and in-state publishers all requisitions for instructional materials for the next school year no later than March 31, unless justification is provided. ~~[For supplemental requisitions received by the in-state distribution point after March 31, delivery to schools shall be made by the later of the following dates: (a) sixty (60) days after receipt or (b) August 1.]~~ Supplemental requisitions received by the in-state distribution point after August 1 shall be delivered within sixty days of the receipt of the requisition.

C. Each public school district, charter school, adult basic education center and state institution may purchase items of instructional material as defined herein and not on the state-adopted list by issuing a purchase order to the publisher or the publisher's authorized agent. The entity is responsible for payment to the vendor/publisher, etc. The cost of the items, plus transportation charges, will be charged to the discretionary funds (50 % of the total allocation) line item of the entity's instructional material allocation.

D. Entities not receiving orders on a timely basis shall provide written documented evidence of ordering dates and/or other pertinent information as required by the department.

E. Annually, at a time specified by the department, each local school board of a school district and each governing authority of a state institution, private school or adult basic education center acquiring instructional material pursuant to the Instructional Material Law [22-15-1 to 22-15-14 NMSA 1978] shall file a report with the department. The annual report shall include the total instructional material allocation received, the average per pupil cost, and year-end cash balances and other documentation as required by the department.

F. Pursuant to the Instructional Material Law [22-15-1 to 22-15-14 NMSA 1978], each local school board of a school district and each governing authority of a state institution, private school or adult basic education center shall keep an itemized list of instructional materials purchased by school and publisher.

G. If closure of a private school is imminent, the school shall contact the chief in writing within 30-days of closure to obtain the approval to dispose of

materials either by sale or return to the bureau. If the chief authorizes the school to sell material purchased with state funds, the monies received must be remitted to the bureau.

H. All entities receiving monies for instructional materials will be provided training on the process of obtaining funds, ordering materials, receiving funds, returning funds for sold or lost materials, and completing the annual report.

[6.75.2.9 NMAC - Rp, 6.75.2.8 NMAC, 01-31-06; A, 05-15-06]

End of Adopted Rules Section

Other Material Related to Administrative Law

**NEW MEXICO
CHILDREN, YOUTH AND
FAMILIES DEPARTMENT
PROTECTIVE SERVICES DIVISION**

**NEW MEXICO
CHILDREN, YOUTH AND FAMILIES
DEPARTMENT
PROTECTIVE SERVICES**

NOTICE OF PUBLIC HEARING

Protective Services (PS) will hold a public hearing in Santa Fe on Friday June 16, 2006 from 1:00 p.m. to 2:00 p.m. Interested parties are invited to make comments regarding the proposed Annual Progress and Services Report for the Child and Family Services plan (Title IV-B) which will be submitted to the United States Department of Health and Human Services Administration for Children and Families on June 30, 2006.

The hearing will be held at the Public Employees Retirement Association (PERA) Building at 1120 Paseo de Peralta, Santa Fe, NM 87501, Room 227. The PERA building is accessible to people with disabilities. Written comments are provided the same weight as comments received during the public hearing. Documents are available in different formats to accommodate a particular disability. Anyone seeking such assistance must provide two weeks notice to receive any written material in an alternative format by calling 505-827-8400. If assistance is required to attend the hearing, please call 505-827-8400 to arrange accommodation.

The current and proposed reports may be accessed by contacting Mark J Ruttkay at 505-827-8445. Copies can also be requested through the use of the New Mexico relay system by calling 505-827-7586.

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS
HISTORICAL RECORDS
ADVISORY BOARD**

Commission of Public Records
New Mexico State Records Center &
Archives
1205 Camino Carlos Rey
Santa Fe, New Mexico 87505

NOTICE OF REGULAR MEETING

A regular meeting of the New Mexico

Historical Records Advisory Board has been scheduled for Friday, June 16, 2006 at 9:00 A.M. The meeting will be held in the Commission Room, of the State Records Center and Archives, which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM 87507. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Gail Packard at the State Records Center and Archives at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact Gail Packard at 505-476-7956 at the State Records Center and Archives for documents. A copy of the proposed agenda may be obtained at the State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507.

**End of Other Related
Material Section**

SUBMITTAL DEADLINES AND PUBLICATION DATES

2006

| Volume XVII | Submittal Deadline | Publication Date |
|--------------------|---------------------------|-------------------------|
| Issue Number 1 | January 3 | January 17 |
| Issue Number 2 | January 18 | January 31 |
| Issue Number 3 | February 1 | February 14 |
| Issue Number 4 | February 15 | February 28 |
| Issue Number 5 | March 1 | March 15 |
| Issue Number 6 | March 16 | March 31 |
| Issue Number 7 | April 3 | April 14 |
| Issue Number 8 | April 17 | April 28 |
| Issue Number 9 | May 1 | May 15 |
| Issue Number 10 | May 16 | May 31 |
| Issue Number 11 | June 1 | June 15 |
| Issue Number 12 | June 16 | June 30 |
| Issue Number 13 | July 3 | July 17 |
| Issue Number 14 | July 18 | July 31 |
| Issue Number 15 | August 1 | August 15 |
| Issue Number 16 | August 16 | August 31 |
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| Issue Number 20 | October 17 | October 31 |
| Issue Number 21 | November 1 | November 15 |
| Issue Number 22 | November 16 | November 30 |
| Issue Number 23 | December 1 | December 14 |
| Issue Number 24 | December 15 | December 29 |

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.